

REMARKS

Claims 1-102 are currently in the case. By this paper, Applicants have cancelled claims 1-102 and added claims 103-138, as shown, in order to more accurately reflect the subject matter desired for patent protection.

OBJECTION TO THE DISCLOSURE

The Examiner objected to an informality found on page 72, line 8 of Applicants' specification. By this paper, the corresponding paragraph has been amended to correct the informality. Accordingly, withdrawal of the objection is respectfully requested.

REJECTION OF CLAIMS 1-5, 12, 17, 26, 32-35, 38-45, 47-52, 59, 64, 73, 79-82, 85-90, AND 94-99 UNDER 35 U.S.C. §102 OVER REILEY

Claims 1-5, 12, 17, 26, 32-35, 38-45, 47-52, 59, 64, 73, 79-82, 85-90, and 94-99 stand rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,610,091 to Reiley. Applicants respectfully assert that some or all of these claims define over the art of record. However, by this paper, all of the rejected claims have been cancelled.

Regarding new claim 103, Applicants respectfully assert that Reiley does not disclose a system with superior and inferior articular surfaces, wherein a fixation member is "implantable in the first vertebra to secure the superior articular surface and the inferior articular surface to the first vertebra in any of a plurality of relative orientations between the superior and inferior articular surfaces." Rather, it appears that any superior and inferior articular surfaces disclosed by Reiley are not securable to a vertebra via a single fixation member or are not independently orientable.

Further, regarding new claim 113, Reiley does not disclose a system comprising a superior prosthesis, an inferior prosthesis, and "a fixation member implantable in the first vertebra to secure the superior prosthesis and the inferior prosthesis to the first vertebra; wherein the superior prosthesis, the inferior prosthesis, and the fixation member are separate pieces from each other." Rather, it appears that any superior and inferior articular surfaces disclosed by Reiley are not securable to a vertebra via a single fixation member or are formed unitarily as a single piece.

Claims 104-112 and 114-120 are dependent to claims 103 and 113, and therefore are distinguished from Reiley for the same reasons. Furthermore, claims 121 and 131 and their dependents are distinguished from Reiley for the same reasons as claims 104 and 114, respectively.

REJECTION OF CLAIMS 7-11 AND 54-58 UNDER 35 U.S.C. §103 OVER REILEY IN VIEW OF MATTHEWS

Claims 7-11 and 54-58 stand rejected under 35 U.S.C. §103(a) over Reiley in view of U.S. Patent No. 5,569,248 to Matthews. Applicants respectfully assert that some or all of these claims define over the art of record. However, by this paper, all of the rejected claims have been cancelled.

Regarding Applicants' new claims, Applicants respectfully assert the distinguishing features pointed out previously apply also to the combination of Reiley and Matthews because neither Reiley nor Matthews discloses the limitations recited in the language quoted from claims 103 and 113.

REJECTION OF CLAIMS 1, 45, 48, AND 85 FOR OBVIOUSNESS-TYPE DOUBLE PATENTING OVER GOBLE

Claims 1, 45, 48, and 85 stand rejected for obviousness-type double patenting over U.S. Patent No. 6,579,319 to Goble, et al. By this paper, all of the rejected claims have been cancelled. Regarding Applicants' new claims, Applicants respectfully assert that the distinguishing features pointed out previously in the discussion of claims 103 and 113 also distinguish the claims from those of Goble, thereby making the double-patenting rejection moot.

CONCLUSION

Newly submitted claims 103-138 are believed to be allowable over the art of record. If the Examiner sees any impediment to allowance of these claims, or if a further explanation of the novelty of these claims would be helpful, the Examiner is respectfully requested to contact the undersigned.

Dated this 26th day of June 2006.

Respectfully submitted,

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